



COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS

Dennis Kennedy, Mayor
Steve Tate, Mayor Pro Tempore
Larry Carr, Council Member
Mark Grzan, Council Member
Greg Sellers, Council Member

REDEVELOPMENT AGENCY

Dennis Kennedy, Chair
Steve Tate, Vice-Chair
Larry Carr, Agency Member
Mark Grzan, Agency Member
Greg Sellers, Agency Member

WEDNESDAY, APRIL 20, 2005

AGENDA

JOINT MEETING

CITY COUNCIL SPECIAL AND REGULAR MEETING

and

REDEVELOPMENT AGENCY SPECIAL MEETING

6:00 P.M.

A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.

Dennis Kennedy, Mayor/Chairman

CALL TO ORDER

(Mayor/Chairperson Kennedy)

ROLL CALL ATTENDANCE

(City Clerk/Agency Secretary Torrez)

DECLARATION OF POSTING OF AGENDA

Per Government Code 54954.2

(City Clerk/Agency Secretary Torrez)

6:00 P.M.

City Council Action and Redevelopment Agency Action

CLOSED SESSION:

1.

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Authority: Government Code Sections 54956.9(b) & (c)
Number of Potential Cases: 4

2.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated
Actions]
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

3.

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:

Authority: Pursuant to Government Code 54956.9(a)
Case Name: City of Morgan Hill v. Hernandez
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-020063

OPPORTUNITY FOR PUBLIC COMMENT

ADJOURN TO CLOSED SESSION

RECONVENE

CLOSED SESSION ANNOUNCEMENT

7:00 P.M.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

RECOGNITION

Day Worker Center Committee and Workers
Mayor Kennedy

Urban Limit Line Committee
Mayor Kennedy

Business Recycler of the Year - Fox Racing
Residential Recycler of the Year - The Becker Household
Julie Osborne, South Valley Disposal

PROCLAMATIONS

National Volunteer Month
Evan Low, Tim Quigley, Jr.
Volunteer Center of Silicon Valley

PRESENTATIONS

Housing Trust of Santa Clara County
County Supervisor Don Gage

Water Resources Protection Collaborative
Rosemary Kamei, Santa Clara Valley Water District

Progress Report on Water Resources Collaborative
Ann Draper, Santa Clara Valley Water District
Jim Ashcraft, Director of Public Works

CITY COUNCIL REPORT

Council Member Mark Grzan

CITY COUNCIL SUB-COMMITTEE REPORTS

CITY MANAGER'S REPORT

CITY ATTORNEY'S REPORT

OTHER REPORTS

City Treasurer's Quarterly Report
City Treasurer Roorda

PUBLIC COMMENT

NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.
(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND
PRESENT IT TO THE CITY CLERK.**
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY
COUNCIL/REDEVELOPMENT AGENCY.**

City Council Action

CONSENT CALENDAR:

ITEMS 1-14

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

	Page
Time Estimate	
Consent Calendar: 1 - 10 Minutes	
1. <u>MARCH 2005 FINANCE & INVESTMENT REPORT</u>	1
<u>Recommended Action(s):</u> Accept and File Report.	
2. <u>AWARD CONTRACT FOR CONSTRUCTION OF INTERIM OVERFLOW PARKING LOT AT THE AQUATICS CENTER</u>	11
<u>Recommended Action(s):</u>	
1. <u>Award</u> Contract for Construction of the Interim Overflow Parking Lot at the Aquatics Center to Trinchero Construction in the Amount of \$50,477; Subject to Review and Approval by the City Attorney; and	
2. <u>Authorize</u> Expenditure of up to 10% (\$5,048) for Construction Contingency.	
3. <u>AGREEMENTS WITH PACIFIC MUNICIPAL CONSULTANTS, AND THE INSTITUTE & CORRALITOS CREEK LLC REGARDING IMPLEMENTATION OF THE INSTITUTE GOLF COURSE PUD MITIGATION MONITORING AND REPORTING PLAN (MMRP)</u>	15
<u>Recommended Action(s):</u>	
1. <u>Authorize</u> the City Manager to Execute the Agreement between the City of Morgan Hill and Pacific Municipal Consultants, Subject to Review and Approval by the City Attorney; and	
2. <u>Authorize</u> the City Manager to Execute the Agreement between the City of Morgan Hill and The Institute & Corralitos Creek, LLC; Subject to Review and Approval by the City Attorney.	
4. <u>APPROVAL OF INSTALLATION OF PERCHLORATE REMOVAL SYSTEM FOR NORDSTROM WELL FOR SUMMER OF 2005</u>	35
<u>Recommended Action(s):</u> Authorize Issuance of Purchase Order to US Filter in the Amount of \$158,082.	
5. <u>THIRD AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM</u>	39
<u>Recommended Action(s):</u> Authorize the City Manager to Execute a Third Amendment to Agreement with the Strombotne Law Firm.	
6. <u>SECOND AMENDMENT TO AGREEMENT WITH MACLELLAN WOLFSON ASSOCIATES</u>	53
<u>Recommended Action(s):</u> Authorize the City Manager to Execute a Second Amended Agreement with MacLellan Wolfson Associates.	
7. <u>AGREEMENT WITH THE LAW FIRM OF JORGENSON, SIEGEL, McCLURE & FLEGEL, LLP</u>	63
<u>Recommended Action(s):</u> Authorize the City Manager to Execute an Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP. (Vierra Case)	
8. <u>AGREEMENT WITH THE LAW FIRM OF JORGENSON, SIEGEL, McCLURE & FLEGEL, LLP</u>	75
<u>Recommended Action(s):</u> Authorize the City Manager to Execute an Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP. (Berkman, et al Case)	
9. <u>AMENDMENT TO CONTRACT FOR CONSULTANT PLANNING SERVICES</u>	85
<u>Recommended Action(s):</u> Authorize the City Manager to Execute a Contract Amendment in an Amount Not to Exceed \$37,637 for Contract Planning Services.	

	Page
Time Estimate	
Consent Calendar: 1 - 10 Minutes	
10. <u>ADOPT ORDINANCE NO. 1719, NEW SERIES</u>.....	103
<u>Recommended Action(s): Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1719, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.22.010 (Establishment of boards and commissions) OF Chapter 2.22 (Master Provisions for Boards and Commissions) OF TITLE 2 (Administration and Personnel) DELETING REFERENCE TO THE PERSONNEL COMMISSION AND RENAMING THE LIBRARY COMMISSION.	
11. <u>ADOPT ORDINANCE NO. 1720, NEW SERIES</u>.....	107
<u>Recommended Action(s): Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1720, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO SECTION 18.76.250.H.1.B OF THE SIGN CODE TO INCREASE THE MAXIMUM ALLOWABLE SIGN AREA FOR ON-SITE FREESTANDING SIGNS ON LOTS FIVE ACRES OR GREATER IN SIZE IN COMMERCIAL AND INDUSTRIAL PLANNED UNIT DEVELOPMENTS FROM 48 SQUARE FEET TO 50 SQUARE FEET (ZA-05-02: TEXT AMENDMENT – MONUMENT SIGNS/FORD MOTOR CO.)	
12. <u>ADOPT ORDINANCE NO. 1721, NEW SERIES, AS AMENDED</u>.....	111
<u>Recommended Action(s): Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1721, New Series, As Amended, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 6.36 (ANIMALS AND LAND USE) OF TITLE 6 (ANIMALS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-22: CITY OF MORGAN HILL-ACREAGE REQUIRED FOR ANIMALS; AND REQUIREMENT FOR RESIDENTIAL PRIVATE LIVESTOCK PERMIT).	
13. <u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 6, 2005</u>.....	119
14. <u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 11, 2005</u>.....	121

City Council and Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 15-16

	Page
Time Estimate	
Consent Calendar: 1 - 10 Minutes	
15. <u>MORGAN HILL COURTHOUSE AGREEMENT</u>.....	123
<u>Recommended Action(s): Authorize</u> the Executive Director/City Manager to Execute, making Minor Modifications as needed and Subject to Review and Approval by the City Attorney/Agency Counsel, an Agreement with the County of Santa Clara Regarding Clarification of the County’s Responsibilities under the Existing Ground Lease.	

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

16. **APPROVE SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 6, 2005** 131

Redevelopment Agency Action

CONSENT CALENDAR:

ITEMS 17-22

Time Estimate **Page**
Consent Calendar: 1 - 10 Minutes

17. **MARCH 2005 REDEVELOPMENT AGENCY FINANCE & INVESTMENT REPORT** 145
Recommended Action(s): **Accept** and **File** Report.

18. **THIRD QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP** 171
Recommended Action(s):
 1. **Accept** Report; and
 2. **Authorize** the Executive Director to Amend the Agreement, as necessary, to Allow for Monthly Invoicing of Services; Subject to Review and Approval by Agency Counsel.

19. **CASA DIANA MIXED-USE PROJECT - LAND ACQUISITION AND MASTER PLANNING LOAN** 181
Recommended Action(s): **Authorize** the Executive Director to do Everything Necessary and Appropriate to Negotiate, Execute and Implement a Loan Agreement with EAH, Inc., Subject to Review and Approval by Agency Counsel, for a Loan of Up to \$2,165,000 for EAH, Inc. to Acquire Two Parcels of the Casa Diana Housing Commercial Mixed-Use Project, and to Master Plan the Entire Area.

20. **AGREEMENT WITH RICHARDS, WATSON & GERSHON** 185
Recommended Action(s): **Authorize** the Executive Director to do Everything Necessary to Prepare and Execute an Agreement with Richards, Watson & Gershon (RWG) in an Amount not to Exceed \$35,000 for Services Associated with Evaluating the Feasibility of Amending the Redevelopment Plan; Subject to Review and Approval by Agency Counsel.

21. **HOUSING TRUST OF SANTA CLARA COUNTY** 187
Recommended Action(s): **Authorize** the Executive Director to do Everything Necessary to Prepare and Execute the Required Agreements with the Housing Trust of Santa Clara County (HTSCC) to Commit \$200,000 in Agency 20% Housing Set Aside Funds to the HTSCC over a Three-Year Period.

22. **HABITAT FOR HUMANITY – HOUSING PROJECT** 193
Recommended Action(s): **Authorize** the Executive Director to Execute any and all Documents Necessary, Subject to Review and Approval of Agency Counsel, to Grant Silicon Valley Habitat for Humanity (Habitat) an Amount Not to Exceed \$560,000 for the Construction of a Six-Unit Affordable Ownership Housing Project.

City Council Action

OTHER BUSINESS:

	<u>Time Estimate</u>		<u>Page</u>
23.	45 Minutes	<u>URBAN LIMIT LINE-GREENBELT STUDY: REVIEW OF ADVISORY COMMITTEE RECOMMENDATIONS</u>	197
		<u>Recommended Action(s):</u>	
		1. <u>Receive</u> the Urban Limit Line Advisory Committee's Final Report;	
		2. <u>Direct</u> Staff to Include an Industrial Land Market Analysis as a Work Plan Item in the Fiscal Year 2005/2006 City Budget; and	
		3. <u>Direct</u> Staff to Return to the Council in June with an Analysis of the Final Report and Recommendations for an Action Plan to Move the Urban Limit Line-Greenbelt Program forward into the Environmental Review and Implementation Process.	

Correspondence: Santa Clara Valley Audubon Society

City Council Action

PUBLIC HEARINGS:

	<u>Time Estimate</u>		<u>Page</u>
24.	5 Minutes	<u>WATER CONSERVATION SUBMETERING ORDINANCE</u> (Continued from April 6, 2005)	217
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Motion to Waive</u> the Reading in Full of the Ordinance to Amend Chapter 13.04 of the Municipal Code. Action- <u>Motion to Introduce</u> Ordinance by Title Only. (Roll Call Vote)	
25.	5 Minutes	<u>SOLID WASTE MANAGEMENT RATE ADJUSTMENT</u>	223
		Public Hearing Opened. Please Limit Your Remarks to 3 Minutes. Public Hearing Closed Council Discussion. Action- <u>Adopt</u> the Refuse Rate Resolution.	

City Council Action

OTHER BUSINESS: (CONTINUED)

	<u>Time Estimate</u>		<u>Page</u>
26.	10 Minutes	<u>AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY, INC. (IDI) TO CO-SPONSOR THE JULY FOURTH CELEBRATIONS</u>	229
		<u>Recommended Action(s): Determine</u> the Level of City Financial Participation.	

City Council and Redevelopment Agency Action

OTHER BUSINESS:

	Time Estimate		Page
27.	10 Minutes	<u>REQUEST FOR SPONSORSHIP OF THE 26TH ANNUAL MORGAN HILL MUSHROOM MARDI GRAS EVENT</u>	231
		<u>Recommended Action(s):</u> Consider the Request by Morgan Hill Mushroom Mardi Gras for \$10,000 Sponsorship of the 26 th Annual Mushroom Mardi Gras Event.	

City Council Action

OTHER BUSINESS: (CONTINUED)

	Time Estimate		Page
28.	15 Minutes	<u>ADOPTION OF ETHICS POLICY FOR CITY COUNCIL, COMMISSIONERS, BOARD MEMBERS, AND COMMITTEE MEMBERS</u>	235
		<u>Recommended Action(s):</u>	
		1. Adopt Ethics Policy;	
		2. Direct Staff to Distribute Ethics Policy to all Commissioners, Board Members, and Committee Members; Solicit Input, and Report Back to City Council;	
		3. Consider Input from Members of Boards, Commissions, and Committees; and Whether Ethics Policy Should be Revised; and	
		4. Following City Council Approval of the Finalized Version of the Ethics Policy, Direct Staff to Provide Training on the Ethics Policy to all Commissioners, Board Members, and Committee Members.	
29.	10 Minutes	<u>RECONSIDERATION OF FISCAL YEAR 2005-2006 OPERATING AND CAPITAL IMPROVEMENT BUDGET SCHEDULE</u>	243
		<u>Recommended Action(s):</u> Consider Mayor's Request to Reschedule the Fiscal Year 2005-2006 Budget Workshop, and the Indoor Recreation Center Ground Breaking Ceremony.	
30.	10 Minutes	<u>AWARD CONTRACT FOR CONSTRUCTION OF INDOOR RECREATION CENTER</u> (Continued from April 6, 2005).....	245
		<u>Recommended Action(s):</u>	
		1. Approve Project Plans and Specifications; and	
		2. Consider Staff Recommendation to be Presented at, or Prior to, the City Council Meeting.	

FUTURE COUNCIL-INITIATED AGENDA ITEMS:

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

ADJOURNMENT